

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

AMY TRIPP, Conservator of
RRKC, a minor,

Plaintiff,

v.

Case No. 21-12859
Honorable Victoria A. Roberts

UNITED STATES OF AMERICA,

Defendant.

_____ /

**ORDER: (1) DENYING DEFENDANT'S MOTION FOR
EXTENSION OF TIME TO SERVE EXPERT DISCLOSURES
[ECF No. 49]; and (2) RULING ON DISCOVERY DISPUTES [ECF No. 51]**

Before the Court are: (1) Defendant's motion for extension of time to serve expert disclosures [ECF No. 49]; and (2) the parties' April 21, 2023 letter outlining three discovery disputes [ECF No. 51].

A. DEFENDANT'S MOTION FOR EXTENSION [ECF No. 49]

Plaintiff served her expert reports in February 2023. Following a conference on April 7, 2023, the Court extended the deadline for Defendant to serve its expert reports pursuant to Fed. R. Civ. P. 26(a)(2)(B) or disclosures pursuant to Fed. R. Civ. P. 26(a)(2)(C) from April 3, 2023 to April 21, 2023.

Defendant moves to extend this deadline to 30 days after the depositions of Plaintiff's experts are complete. Defendant says it needs to depose Plaintiff's experts to understand their opinions before its experts can respond with their reports.

The original scheduling order required Defendant to serve its expert reports and disclosures two months after Plaintiff made her expert disclosures. That date was not tied to the taking of depositions. The Court finds no need to modify that plan or deviate from this common practice.

The Court **DENIES** Defendant's motion [ECF No. 49]. Defendant must serve its expert reports and/or disclosures pursuant to Rule 26(a)(2)(B)-(C) immediately.

B. APRIL 21, 2023 LETTER OUTLINING THREE DISCOVERY DISPUTES [ECF No. 51]

1. Time Allocation for Plaintiff's Expert Witness Depositions

The parties dispute the amount of time Defendant has to depose Plaintiff's experts and whether the depositions are limited to one day.

Because the Court has not ordered otherwise and the parties have not stipulated otherwise, the depositions are limited to "one day of 7 hours." Fed. R. Civ. P. 30(d)(1) ("Unless otherwise stipulated or ordered by the court, a deposition is limited to one day of 7 hours.").

2. Deposition Dates for Defendant's Expert Witnesses

This dispute relates to Defendant's motion to extend. Plaintiff complains that Defendant will not identify its experts or serve its expert reports/disclosure. Plaintiff also says the parties should schedule expert depositions in an alternating format, as opposed to completing the depositions for all of Plaintiff's experts before Defendant's experts.

Defendant says: "The Court's scheduling order contemplated that Plaintiff would disclose expert reports ***and that her experts would be deposed*** before [Defendant] disclosed its rebuttal reports." [Letter, p. 3 (emphasis added)]

This is a mischaracterization and misunderstanding of the scheduling order. The scheduling order required Plaintiff to disclose expert reports before Defendant; it does not require Plaintiff's experts to be deposed before Defendant must disclose its expert reports.

Counsel must work together professionally and cordially to schedule the numerous expert depositions in a timely manner before the expert discovery deadline. Neither party's experts are required to be deposed before the other party's experts are.

3. Extension of Expert Discovery Deadlines

The Court extends the deadline for expert discovery until July 21, 2023. The parties may not reschedule the July 24, 2023 mediation scheduled with Robert Riley.

If the parties demonstrate good cause, the Court will entertain an extension to conduct damages expert discovery beyond the July 21 deadline. However, absent exceptional and unforeseen circumstances, the Court will not extend liability expert discovery.

IT IS ORDERED.

s/ Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: April 26, 2023